

FAX TRANSMITTAL SHEET  
KLAUBER & JACKSON  
ATTORNEYS AT LAW  
CONTINENTAL PLAZA  
411 HACKENSACK AVENUE  
HACKENSACK, NJ 07601

PHONE (201) 487-5800

FAX (201) 343-1684 OR  
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**RECEIVED**

3 NOV 2004

Legal Staff  
International Division

TO : USPTO  
MAIL STOP PCT  
ATTN: PCT LEGAL ADMINISTRATOR

FROM : DAVID A. JACKSON

RE : APPLICATION NO. 09/980,649  
ATTORNEY DOCKET NO. 2632-1-001  
PETITION TO WITHDRAW A HOLDING OF ABANDONMENT

DATE : NOVEMBER 3, 2004

FAX NO. : (571) 273-0459

TOTAL NUMBER OF PAGES (INCLUDING THIS COVER SHEET): 25

MESSAGE:

FOLLOWING IS A PETITION TO WITHDRAW A HOLDING OF ABANDONMENT  
MADE IN PCT OPERATIONS UNDER 37 CFR 1.181

NOTE: The information contained in this facsimile message is attorney-client privileged and contains confidential information intended only for the use of the individual named above and others who have been specifically authorized to receive it. If you are not the intended recipient, you are hereby notified that any dissemination, distribution or copy of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone (201-487-5800) and return the original transmission to us by mail without making a copy.

BEST AVAILABLE COPY

Attorney Docket No.: 2632-1-001

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

APPLICANTS: Pierre Belhumeur et al. EXAMINER: Unknown  
SERIAL NO : 09/980,649 ART UNIT: Unknown  
FILED : October 24, 2001  
FOR : BIOLOGICAL INDICATORS FOR VALIDATING A PRION  
STERILIZATION PROCESS

**CERTIFICATE OF FACSIMILE TRANSMISSION**

I hereby certify that this correspondence is transmitted via facsimile to telephone number (571) 273-0459, and is addressed to MAIL STOP PCT, COMMISSIONER FOR PATENTS, P.O. BOX 1450, ALEXANDRIA, VA 22313-1450 on November 3, 2004.

Karen Garipoli  
(Name of Transmitter)

Karen Garipoli 11/3/04  
Signature and Date

**PETITION TO WITHDRAW A HOLDING OF ABANDONMENT MADE IN PCT  
OPERATIONS UNDER 37 CFR 1.181**

MAIL STOP PCT  
COMMISSIONER FOR PATENTS  
P.O. BOX 1450  
ALEXANDRIA, VA 22313-1450

ATTENTION: PCT LEGAL ADMINISTRATOR

Dear Sir:

Applicants hereby petition the Commissioner under 37 CFR 1.181 to withdraw a holding of abandonment that was made under 37 CFR 1.53(f) or (g) having a mailing date of January 13, 2003. The Notice of Abandonment specified that there was a failure to timely or properly reply to a Notice To File Missing Parts of Application, which notice was mailed January 23, 2002, and that the failure

Attorney Docket No.: 2632-1-001

in question was "no reply was received". Applicants base the herein petition on the fact that such reply was filed and received by PCT Operations and that such filings were conducted in accordance with appropriate mailing procedures and within the times specified for such submissions. The facts pertaining to the present application and applicants' actions in relation to same, are set forth below.

Initially, the application entered the National Phase before the U.S. Patent and Trademark Office PCT Operations on October 24, 2001. Applicants received a Notification of Missing Requirements Under 35 USC 371 which was mailed to applicants on January 23, 2002. The notification indicated that there were two outstanding matters, specifically, the oath or declaration of the inventors and the \$65.00 surcharge. Applicants responded to this notice by correspondence that was placed in express mailing on March 25, 2002, which is considered timely in view of the fact that March 23, 2002 fell on a Saturday. A copy of applicants submission including the requisite documents and payment and including a copy of the Notification of Missing Requirements, is included herewith as Exhibit 1.

Applicants then received a Notification of Defective Response mailed April 17, 2002. The Notification of Defective Response indicated that the oath or declaration of inventors was non-compliant in accordance with 37 CFR 1.497(a) and (b) in that (a) it does not identify the application to which it is directed; (b) it does not state the person making the oath or declaration believes the inventors are the original and first inventors of the subject matter which is claimed and for which a patent is sought. Applicants' documents were reviewed and it was observed that the Notification was likely based on the fact that the first page of the Declaration and Power of Attorney had inadvertently not been included in the response to Notification of Missing Requirements. Accordingly, applicants prepared and forwarded a copy of the Declaration, including page 1 and forwarded this to the U.S. Patent and Trademark Office for filing on May 15, 2002, two days prior to the expiration date of the (1) month term for response without extension, that was specified in the Notification of Defective Response. A copy of applicants response filed May 15, 2002 is enclosed together with a canceled postcard evidencing receipt by the U.S. Patent and Trademark Office. Copies of this correspondence which include a copy of the Notification of Defective Response, are attached hereto as Exhibit 2.

Attorney Docket No.: 2632-1-001

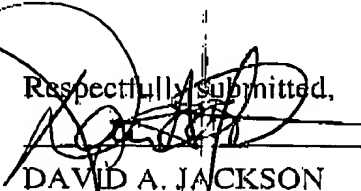
Applicants subsequently received a Notice of Abandonment, which notice was mailed on January 13, 2003. Applicants reviewed the notice and filed a Request for Withdrawal of Incorrect Abandonment as of February 5, 2003. A copy is enclosed as Exhibit 3. The particular format for such a request had been previously utilized by applicants' representative in circumstances where it was determined that the record was clear with regard to compliance, and such a submission had been accepted in the form indicated. This submission, which enclosed the documents set forth in Exhibits 1 and 2 herein, was therefore believed to be responsive to the Notice of Abandonment, and applicants anticipated in ordinary course, that the application would be reinstated and that processing and examination of the application would take place.

The circumstances that gave rise to the present inquiry and corresponding petition, resulted from an inquiry by the client as to the status of the matter. Personnel of the law firm of the undersigned endeavored to locate the file which apparently had been misfiled, and upon retrieving the same, noted that further correspondence from the PTO had not been received subsequent to applicants' response to the Notice of Abandonment.

In summary, applicants believe that the abandonment of the present application was incorrect and that withdrawal is appropriate. Moreover, applicants attribute any delay in the preparation and submission of the within petition to the inadvertent failure to docket the file for further call-up and review prior to the discovery of the present circumstance as enumerated herein above. Applicants request accordingly, that the Commissioner exercise discretion in applicants' favor in view of the circumstances herein, and that the present application be restored to the pending rolls. Such action is, accordingly, courteously solicited.

Also enclosed herewith is the requisite fee mandated by 37 CFR 1.17(h) in the amount of \$130.00. Authorization is hereby given to charge Deposit Account #11-1153 of the undersigned, and a Fee Transmittal is likewise enclosed.

Respectfully Submitted,

  
DAVID A. JACKSON  
Attorney for Applicants  
Registration No. 26,742

KLAUBER & JACKSON  
411 Hackensack Ave., 4<sup>th</sup> Floor  
Hackensack, NJ 07601  
(201) 487-5800

**Enclosures**

PTO/SB/17 (10-03)

Approved for use through 07/31/2005. OMB 0651-0032  
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**FEE TRANSMITTAL**  
**for FY 2004**

Effective 10/01/2003. Patent fees are subject to annual revision.

☒ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$130.00)

**Complete if Known**

Application Number	09/980,649
Filing Date	October 24, 2001
First Named Inventor	Pierre Belhumeur et al.
Examiner Name	Unknown
Art Unit	Unknown
Attorney Docket No.	2632-1-001

**METHOD OF PAYMENT (check all that apply)**
☐ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None
☒ Deposit Account:Deposit Account Number  
Deposit Account Name

11-1153

The Director is authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☒ Credit any overpayments☒ Charge any additional fee(s) or any underpayment of fee(s)☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.**FEE CALCULATION****1. BASIC FILING FEE**

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1001	770	2001	385	Utility filing fee	
1002	340	2002	170	Design filing fee	
1003	530	2003	265	Plant filing fee	
1004	770	2004	385	Reissue filing fee	
1005	160	2006	80	Provisional filing fee	

SUBTOTAL (1) (\$)

**2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE**

Total Claims	Extra Claims	Fee from below	Fee Paid
Independent Claims	-20** =	X	
Multiple Dependent Claims	-3** =	X	

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1202	18	2202	9	Claims in excess of 20	
1201	85	2201	43	Independent claims in excess of 3	
1203	280	2203	145	Multiple dependent claim, if not paid	
1204	85	2204	43	** Reissue independent claims over original patent	
1205	18	2205	9	** Reissue claims in excess of 20 and over original patent	

SUBTOTAL (2) (\$)

\*\*or number previously paid, if greater; For Reissues, see above

**FEE CALCULATION (continued)****3. ADDITIONAL FEES**

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for ex parte reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	110	2251	65	Extension for reply within first month	
1252	420	2252	210	Extension for reply within second month	
1253	950	2253	475	Extension for reply within third month	
1254	1,480	2254	740	Extension for reply within fourth month	
1255	2,010	2255	1,005	Extension for reply within fifth month	
1401	330	2401	165	Notice of Appeal	
1402	330	2402	165	Filing a brief in support of an appeal	
1403	280	2403	145	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	110	2452	65	Petition to revive - unavoidable	
1453	1,330	2453	665	Petition to revive - unintentional	
1501	1,330	2501	665	Utility issue fee (or reissue)	
1502	480	2502	240	Design issue fee	
1503	640	2503	320	Plant issue fee	
1450	130	1450	130	Petitions to the Commissioner	130.
1807	50	1807	50	Processing fee under 37 CFR 1.17(q)	
1808	180	1808	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	770	2809	385	Filing a submission after final rejection (37 CFR 1.128(a))	
1810	770	2810	385	For each additional invention to be examined (37 CFR 1.128(b))	
1801	770	2801	385	Request for Continued Examination (RCE)	
1802	800	1802	800	Request for expedited examination of a design application	

Other fee (specify)

\*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$130.00)

**SUBMITTED BY**

Name (Print/Type)

David A. Jackson

Registration No.  
(Attorney/Agent)

26,742

(Complete if applicable)

Telephone 201-487-5800

Signature

Date

Nov. 3, 2004

**WARNING:** Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

This collection of information is required by 37 CFR 1.17 and 1.27. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-199 and select option 2.

Serial No. 09/980,649 File No. 2632-1-001 By DAJ/mb  
Title Biological Indicators for Validating A Prion....  
In the Matter of the Application of Pierre Belhumeur et al.  
The following was received in the U.S. Patent & Trademark Office on the date  
stamped hereon: Express Mail No: EV052401741US

**JC02 Rec'd PCT/PTO 25 MAR 2002**

- |   |  |
|---|--|
| <input checked="" type="checkbox"/> Transmittal Sheet/Cover Ltr.                            | <input type="checkbox"/> Extension of Time                       |
| <input type="checkbox"/> Application For Patent   | <input type="checkbox"/> Issue Fee Transmittal                   |
| <input checked="" type="checkbox"/> Declaration <input type="checkbox"/> Affidavit Executed | <input type="checkbox"/> Maintenance Fee                         |
| <input type="checkbox"/> Drawings <input type="checkbox"/> Sheet(s)                         | <input type="checkbox"/> App'n. TM Registration                  |
| <input type="checkbox"/> S.E. Verified Statements   | <input type="checkbox"/> 8 & 15 Declaration                      |
| <input type="checkbox"/> Assignment   | <input type="checkbox"/> Renewal Application                     |
| <input checked="" type="checkbox"/> Check for \$ <u>65.00</u>                               | <input type="checkbox"/> Notice of Appeal                        |
| <input type="checkbox"/> Letter <input type="checkbox"/> Missing Parts                      | <input type="checkbox"/> Brief <input type="checkbox"/> Petition |
| <input type="checkbox"/> Priority Document  | <input type="checkbox"/> Power of Attorney                       |
| <input type="checkbox"/> Amendment <input type="checkbox"/> Response                        | <input checked="" type="checkbox"/> Missing Requirements Copy    |

EXHIBIT 1

RECEIVED

APR 02 2002

KLAUBER & JACKSON

**KLAUBER & JACKSON**

ATTORNEYS AT LAW

CONTINENTAL PLAZA

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CATHERINE ROSEMAN SMITH\*

\*BAR OTHER THAN N.J.  
\*COUNSEL

## PATENT AGENTS

CHRISTINE E. DIETZEL, PH.D.  
MICHAEL A. YAMIN, PH.D.

## SCIENTIFIC ADVISOR

VERONICA M. MALLON, PH.D.

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FACSIMILE: (201) 343-1684

WWW.KJLAW.COM

WRITER'S E-MAIL:

DAVID.JACKSON@KJLAW.COM

March 25, 2002

Box PCT

Assistant Commissioner for Patents  
Washington, D.C. 20231

Re: Entry Into The National Phase in U.S. Based on  
International Patent Application No. PCT/CA00/00446  
Inventor(s) : Pierre BELHUMEUR *et al*  
Applicant(s) : Université de Montréal  
Title : BIOLOGICAL INDICATORS FOR VALIDATING A  
PRION STERILIZATION PROCESS  
Serial No. : 09/980,649  
Filing Date : October 24, 2001  
Docket No. : 2632-1-001

EXPRESS MAIL "MAILING CERTIFICATE NO." : EV052401741US  
DATE OF DEPOSIT : MARCH 25, 2002

SUBMISSION OF MISSING REQUIREMENTS UNDER  
35 U.S.C. 371 IN THE UNITED STATES  
DESIGNATED/ELECTED OFFICE (DO/EO/US)

Dear Sir:

Responsive to the Notification of Missing Requirements Parts of Application under 35 U.S.C. 371 in the U.S. Designated/Elected Office, copy enclosed, Applicants submit herewith the following:

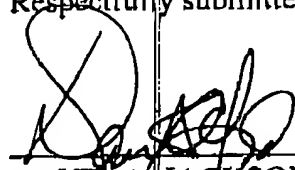
1. A combined Declaration and Power of Attorney making reference to the above-identified application, and in compliance with 37 CFR 1.63.
2. Check in the amount of \$65.00 representing the surcharge (small entity) for late filing of the executed Declaration and Power of Attorney.

Box PCT  
March 25, 2002  
Page 2

Attorney Docket: 2632-1-001

Applicant hereby authorizes that any charges in addition to the above authorized that relate to the filing and processing of the present Application in accordance with 37 CFR 1.16 and 1.17 may be charged to Deposit Account No. 11-1153. A duplicate copy of this letter is provided for this purpose.

Respectfully submitted,



DAVID A. JACKSON  
Attorney for Applicant(s)  
Registration No. 26,742

DAJ/mb  
Enclosures

KLAUBER & JACKSON



Docket No: 2632-1-001

**COMBINED DECLARATION FOR UTILITY OR DESIGN  
PATENT APPLICATION (37 CFR 1.63) AND POWER OF ATTORNEY**

I hereby claim the benefit under 35 U.S.C. 120 of any United States application(s), or 365(c) of any PCT international application designating the United States of America, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT International application in the manner provided by the first paragraph of 35 U.S.C. 112, I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56 which became available between the filing date of the prior application and the national or PCT International filing date of this application.

U.S. Parent Application or PCT Parent Number	Parent Filing Date (MM/DD/YYYY)	Parent Patent Number (if applicable)
PCT/CA00/00446	04/20/2000	

☐ Additional U.S. or PCT International application numbers are listed on a supplemental priority data sheet PTO/SB/02B attached hereto:

As a named inventor, I hereby appoint the following registered practitioner(s) to prosecute this application and to transact all business in the Patent Trademark Office connected therewith:

<input type="checkbox"/> Customer Number: <span style="border: 1px solid black; padding: 2px;"> </span>		Place Customer Number Bar Code Label Here	
OR <input checked="" type="checkbox"/> Registered practitioner(s) name/registration number listed below			
Name	Registration Number	Name	Registration Number
Stefan J. Klauber	22,604	David A. Jackson	26,742
Michael D. Davis	39,161	Allan H. Fried	31,263
Michael A. Yamin	44,414	Robert Mitchell	25,007
Guy Houle	24,971	Kevin P. Murphy	28,874
Robert Carrier	30,726	Michel J. Sofia	37,017
Françoise Côté	37,037	James A. Anglehart	38,796
		Christian Cawthorn	47,352

Direct all correspondence to ☐ Customer Number or Bar Code Label  

OR ☒ Correspondence address below

Name **KLAUBER & JACKSON**

Address **411 Hackensack Avenue**

Address

City **Hackensack**

State **New Jersey**

Postal Code **07601**

Country **USA**

Telephone **(201) 487-5800**

Fax **(201) 343-1684**

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

**Name of sole or First Inventor:**

Given Name (first and middle, if any)

**Pierre**

☐ A petition has been filed for this unsigned inventor

Family Name or Surname

**BELHUMEUR**

Inventor's Signature

Date

**FEB. 8 / 2002**

Residence: City

**Laval**

State

**Quebec**

Country

**Canada**

Citizenship

**Canadian**

Post Office Address

**30 Alexandre**

City

**Laval**

Province or State

**Quebec**

Postal Code or Zip

**H7G 3K9**

Country

**CANADA**

☒ Additional inventors are being named on the

supplemental Additional Inventor(s) PTO/SB/02A attached hereto.

Docket No: 2632-1-00-

COMBINED DECLARATION FOR UTILITY OR DESIGN  
PATENT APPLICATION (37 CFR 1.63) AND POWER OF ATTORNEY

PTO/SB/02A (3-97)

**DECLARATION**ADDITIONAL INVENTOR(S)  
Supplemental Sheet  
Page 3 of 4**Name of Additional Joint Inventor, if any:**

Given Name (first and middle [if any])

Karine

☐ A petition has been filed for this unsigned inventor

Family Name or Surname

JULIEN

Inventor's Signature

Date 18/FEB/2002

Residence:

City Montréal State Quebec Country Canada Citizenship CA

Post Office Address 8160 Chambord

Apt. 2

City Montréal Province or State Quebec Postal Code H2E 1X7 Country CANADA

**Name of Additional Joint Inventor, if any:**

Given Name (first and middle [if any])

Maryam

☐ A petition has been filed for this unsigned inventor

Family Name or Surname

TABRIZIAN

Inventor's Signature

Date 13/03/2002

Residence:

City Longueuil State Quebec Country Canada Citizenship Canadian

Post Office Address 1406 Des Sables

City Longueuil Province or State Quebec Postal Code J4J 5K3 Country CANADA

**Name of Additional Joint Inventor, if any:**

Given Name (first and middle [if any])

L'Hocine

☐ A petition has been filed for this unsigned inventor

Family Name or Surname

YAHIA

Inventor's Signature

Date 04/03/2002

Residence:

City Pointe-Claire State Quebec Country Canada Citizenship Canadian

Post Office Address 118 Graystone

City Pointe-Claire Province or State Quebec Postal Code H9R 5T5 Country CANADA

☒ Additional Inventors are being named on the supplemental Additional Inventor(s) PTO/SB/02A attached hereto.

Docket No: 2632-1-001

COMBINED DECLARATION FOR UTILITY OR DESIGN  
PATENT APPLICATION (37 CFR 1.63) AND POWER OF ATTORNEY

PTO/SB/02A (3-97)

**DECLARATION**ADDITIONAL INVENTOR(S)  
Supplemental Sheet  
Page 4 of 4**Name of Additional Joint Inventor, if any:**☐ A petition has been filed for this unsigned inventor

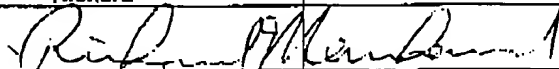
Given Name (first and middle (if any))

Family Name or Surname

Richard

MARCHAND

Inventor's Signature



Date 03/11/01

Residence:

City Montréal State Quebec Country Canada Citizenship CA

Post Office Address 5375 Place Lafond

City Montréal Province or State Quebec Postal Code H1X 3G6 Country CANADA

**Name of Additional Joint Inventor, if any:**☐ A petition has been filed for this unsigned inventor

Given Name (first and middle (if any))

Family Name or Surname

Inventor's Signature

Date

Residence:

City State Country Citizenship

Post Office Address

City Province or State Postal Code Or Zip Country

**Name of Additional Joint Inventor, if any:**☐ A petition has been filed for this unsigned inventor

Given Name (first and middle (if any))

Family Name or Surname

Inventor's Signature

Date

Residence:

City State Country Citizenship

Post Office Address

City Province or State Postal Code Or Zip Country

☐ Additional inventors are being named on the supplemental Additional Inventor(s) PTO/SB/02A attached hereto.



## UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents, Rev. PCT  
United States Patent and Trademark Office  
Washington, D.C. 20231  
www.uspto.gov

U.S. APPLICATION NUMBER NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
09/980,649	Pierre Belhumeur	2632-1-001 +051-1-019
INTERNATIONAL APPLICATION NO.		
PCT/CA00/00446		
LA. FILING DATE	PRIORITY DATE	
04/20/2000		

David A Jackson  
Klauber & Jackson  
411 Hackensack Avenue  
Hackensack, NJ 07601

CONFIRMATION NO. 6750

371 FORMALITIES LETTER



\*0000000007330534\*

Date Mailed: 01/23/2002

*Due 3/23/02*  
*DOO 7/23/02*

**NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)**

The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as an Elected Office (37 CFR 1.495):

- U.S. Basic National Fees
- Indication of Small Entity Status
- Copy of IPE Report
- Copy of references cited in ISR
- Copy of the International Application
- Copy of the International Search Report
- Preliminary Amendments
- Request for Immediate Examination

The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

- Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the international application number and international filing date.
- \$65 Surcharge for providing the oath or declaration later than the appropriate 30 months from the priority date (37 CFR 1.492(e)) is required.

**ALL OF THE ITEMS SET FORTH ABOVE MUST BE SUBMITTED WITHIN TWO (2) MONTH FROM THE DATE OF THIS NOTICE OR BY 22 or 32 MONTHS (where 37 CFR 1.495 applies) FROM THE PRIORITY DATE FOR THE APPLICATION, WHICHEVER IS LATER. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.**

The time period set above may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

**DOCKETED RECEIVED**  
JAN 30 2002

KLAUBER &amp; JACKSON

✓

**SUMMARY OF FEES DUE:**

Total additional fees required for this application is \$85 for a Small Entity:

- \$85 Late oath or declaration Surcharge.

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

*A copy of this notice **MUST** be returned with the response.*

ANITA D JOHNSON

Telephone: (703) 305-3661

**PART 1 - ATTORNEY/APPLICANT COPY**

U.S. APPLICATION NUMBER NO.	INTERNATIONAL APPLICATION NO.	ATTY. DOCKET NO.
09/980,649	PCT/CA00/00446	1051-1-019

JUN 04 2002 PGT/PTO

Serial No. 09/480,649 File No. 26321-001 By DAJ/mb  
Title Biological Indicators For Validating  
In the Matter of the Application of Pierre Belhumeur et al.

The following was received in the U.S. Patent & Trademark Office on the date stamped hereon:

VIA FIRST CLASS MAIL

- |  |  |
|--|--|
| <input type="checkbox"/> Transmittal Sheet/Cover Ltr.                              | <input type="checkbox"/> Extension of Time   |
| <input type="checkbox"/> Application For Patent                                    | <input type="checkbox"/> Issue Fee Transmittal                                     |
| <input checked="" type="checkbox"/> Declaration <input type="checkbox"/> Affidavit | <input type="checkbox"/> Maintenance Fee   |
| <input type="checkbox"/> Drawings <input type="checkbox"/> Sheet(s)                | <input type="checkbox"/> Appln. TM Registration                                    |
| <input type="checkbox"/> S.E. Verified Statements                                  | <input type="checkbox"/> 8 & 15 Declaration  |
| <input type="checkbox"/> Assignment  | <input type="checkbox"/> Renewal Application                                       |
| <input type="checkbox"/> Check for \$ _____  | <input type="checkbox"/> Notice of Appeal  |
| <input type="checkbox"/> Letter <input type="checkbox"/> Missing Parts             | <input type="checkbox"/> Brief <input type="checkbox"/> Petition                   |
| <input type="checkbox"/> Priority Document   | <input type="checkbox"/> Power of Attorney   |
| <input type="checkbox"/> Amendment <input type="checkbox"/> Response               | <input checked="" type="checkbox"/> Response to Notification of Defective Response |

Executed  
4 Pages

EXHIBIT 2

RECEIVED

JUN 14 2002

KLAUBER & JACKSON

PATENT  
2632-1-001IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT : Pierre BELHUMEUR *et al*  
SERIAL NO. : 09/980,649 EXAMINER : Unknown  
FILED : October 24, 2001 ART UNIT : Unknown  
FOR : BIOLOGICAL INDICATORS FOR VALIDATING A PRION  
STERILIZATION PROCESS

Certificate of Mailing Under 37 CFR 1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to ASSISTANT COMMISSIONER FOR PATENTS, WASHINGTON, D.C. 20231 on May 15, 2002.

David A. Jackson, Reg. No. 26,742  
(Name of Registered Rep.)

Matthew B. W. Jackson 5/15/02  
(Signature and Date)

RESPONSE TO NOTIFICATION OF DEFECTIVE RESPONSE

ASSISTANT COMMISSIONER FOR PATENTS  
BOX PCT  
WASHINGTON, D.C. 20231

Dear Sir:

Responsive to the communication dated April 17, 2002, applicants submit herewith a substitute copy of the Declaration and Power of Attorney that was initially submitted by applicants as of March 25, 2002 by Express Mail.

Accordingly, the Declaration and Power of Attorney attached hereto includes a total of four pages. The Declaration and Power of Attorney that was submitted in response to the Notice of Missing Requirements contained only three pages, and these are identified on the lower margin thereof with the legends "Page 2 of 4," "Page 3 of 4" and "Page 4 of 4," and thus failed to include Page 1 of the Declaration. Page 1 of the Declaration in turn, contains

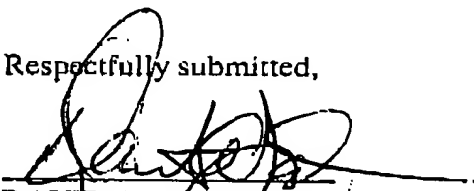
PATENT.  
2632-1-001

the information that is deemed to be lacking and that has rendered the present application informal.

Applicants believe that the attached Declaration and Power of Attorney which is represented herein to be identical in substance to that which was submitted earlier, is fully responsive and resolves the outstanding informalities in this case.

Accordingly, acceptance of the enclosed Declaration and Power of Attorney and favorable action in the award of a formal filing date and for the processing of the application are believed to be in order, and are courteously solicited.

Respectfully submitted,



DAVID A. JACKSON  
Attorney for Applicant(s)  
Registration No. 26,742

KLAUBER & JACKSON  
411 Hackensack Avenue  
Hackensack, NJ 07601  
(201) 487-5800

Date: May 15, 2002

Enclosure



PTO/SB/01 (12-97)

<b>COMBINED DECLARATION FOR UTILITY OR DESIGN PATENT APPLICATION (37 CFR 1.63) AND POWER OF ATTORNEY</b>		Attorney Docket Number _____
		First Named Inventor <u>Pierre Belhumeur et al.</u>
		<i>Complete if known</i>
		Application Number _____
		Filing Date _____
<input type="checkbox"/> Declaration Submitted with Initial Filing         OR <input type="checkbox"/> Declaration Submitted after Initial Filing (surcharge (37 CFR 1.18(e)) required)		Group Art Unit _____
		Examiner Name _____

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe that I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

**BIOLOGICAL INDICATORS FOR VALIDATING A PRION STERILIZATION-PROCESS**

the specification of which

☐ is attached hereto.

OR

☐ was filed on \_\_\_\_\_

(mm/dd/yyyy)

as United States Application Number or PCT International Application Number \_\_\_\_\_

PCT/CA00/00446

and was amended on \_\_\_\_\_ (if applicable).

(mm/dd/yyyy)

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment specifically referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56.

I hereby claim foreign priority benefits under 35 U.S.C. 119(a)-(d) or 365(b) of any foreign application(s) for patent or inventor's certificate, or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below, by checking the box, any foreign application for patent or inventor's certificate, or of any PCT international application having a filing date before that of the application on which priority is claimed.

Prior Foreign Application Number(s)	Country	Foreign Filing Date (MM/DD/YYYY)	Priority Not claimed	Certified Copy Attached?	
				YES	NO
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

☐ Additional foreign application numbers are listed on a supplemental priority data sheet PTO/SB/02B attached hereto.

I hereby claim the benefit under 35 U.S.C. 119(e) of any United States provisional application(s) listed below.

Application Number(s)	Filing Date (MM/DD/YYYY)
60/130,845	04/26/1999

☐ Additional provisional application numbers are listed on a supplemental priority data sheet PTO/SB/02B attached hereto.

**COMBINED DECLARATION FOR UTILITY OR DESIGN  
PATENT APPLICATION (37 CFR 1.63) AND POWER OF ATTORNEY**

I hereby claim the benefit under 35 U.S.C. 120 of any United States application(s), or 365(c) of any PCT International application designating the United States of America, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT International application in the manner provided by the first paragraph of 35 U.S.C. 112, I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56 which became available between the filing date of the prior application and the national or PCT International filing date of this application.

U.S. Parent Application or PCT Parent Number	Parent Filing Date (MM/DD/YYYY)	Parent Patent Number (if applicable)
PCT/CA00/00446	04/20/2000	

☐ Additional U.S. or PCT International application numbers are listed on a supplemental priority data sheet PTO/SB/02B attached hereto:

As a named inventor, I hereby appoint the following registered practitioner(s) to prosecute this application and to transact all business in the Patent Trademark Office connected therewith:

<input type="checkbox"/> Customer Number <span style="border: 1px solid black; display: inline-block; width: 100px; height: 1.2em; vertical-align: middle;"></span>		Place Customer Number Bar Code Label Here	
OR <input checked="" type="checkbox"/> Registered practitioner(s) name/registration number listed below			
Name	Registration Number	Name	Registration Number
Stefan J. Klauber	22,604	David A. Jackson	28,742
Michael D. Davis	39,161	Allan H. Fried	31,253
Michael A. Yamin	44,414	Robert Mitchell	25,007
Guy Houle	24,871	Kevin P. Murphy	28,674
Robert Carrier	30,726	Michel J. Sofia	37,017
France Côté	37,037	James Anglehart	38,786
		Christian Cawthorn	47,352

Direct all correspondence to ☐ Customer Number  OR ☒ Correspondence address below

Name **KLAUBER & JACKSON**  
 Address **411 Hackensack Avenue**  
 Address \_\_\_\_\_  
 City **Hackensack** State **New Jersey** Postal Code **07601**  
 Country **USA** Telephone **(201) 487-5800** Fax **(201) 343-1684**

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

**Name of sole or First Inventor:**

☐ A petition has been filed for this unsigned inventor

Given Name (first and middle, if any)

Family Name or Surname

Pierre

BELHUMEUR

Inventor's Signature

Date

FEB. 8/2002

Residence: City

Laval

State

Quebec

Country

Canada

Citizenship

Canadian

Post Office Address

30 Alexandre

City

Laval

Province or State

Quebec

Postal Code Or Zip

H7G 3K9

Country

CANADA

☒ Additional inventors are being named on the supplemental Additional Inventor(s) PTO/SB/02A attached hereto.

**COMBINED DECLARATION FOR UTILITY OR DESIGN  
PATENT APPLICATION (37 CFR 1.63) AND POWER OF ATTORNEY**

PTO/SB/02A (3-97)

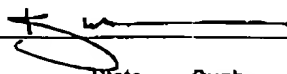
**DECLARATION**

**ADDITIONAL INVENTOR(S)  
Supplemental Sheet  
Page 3 of 4**

**Name of Additional Joint Inventor, if any:**☐ A petition has been filed for this unsigned inventor

Given Name (first and middle (if any))

Family Name or Surname

KarineJULIENInventor's Signature Date 18/FEB/2002

Residence:

City Montréal State Quebec Country Canada Citizenship CAPost Office Address 8160 ChambordApt. 2City Montréal Province or State Quebec Postal Code H2E 1X7 Country CANADA**Name of Additional Joint Inventor, if any:**☐ A petition has been filed for this unsigned inventor

Given Name (first and middle (if any))

Family Name or Surname

MaryamTABRIZIANInventor's Signature Date 13/03/2002

Residence:

City Longueuil State Quebec Country Canada Citizenship CanadianPost Office Address 1406 Des SablesCity Longueuil Province or State Quebec Postal Code J4J 5K3 Country CANADA**Name of Additional Joint Inventor, if any:**☐ A petition has been filed for this unsigned inventor

Given Name (first and middle (if any))

Family Name or Surname

L'HocineYAHIAInventor's Signature Date 04/03/2002

Residence:

City Pointe-Claire State Quebec Country Canada Citizenship CanadianPost Office Address 118 GreystoneCity Pointe-Claire Province or State Quebec Postal Code H9R 5T5 Country CANADA☒ Additional Inventors are being named on the supplemental Additional Inventor(s) PTO/SB/02A attached hereto.

COMBINED DECLARATION FOR UTILITY OR DESIGN  
PATENT APPLICATION (37 CFR 1.63) AND POWER OF ATTORNEY

PTO/SB/02A (3-97)

**DECLARATION**ADDITIONAL INVENTOR(S)  
Supplemental Sheet  
Page 4 of 4**Name of Additional Joint Inventor, if any:**☐ A petition has been filed for this unsigned inventor

Given Name (first and middle (if any))

Family Name or Surname

Richard

MARCHAND

Inventor's Signature

Date 03/11/01

Residence:

City

Montréal

State

Quebec

Country

Canada

Citizenship

CA

Post Office Address

5375 Place Lafond

City

Montréal

Province  
or State

Quebec

Postal Code  
Or Zip

H1X 3G6

Country

CANADA

**Name of Additional Joint Inventor, if any:**☐ A petition has been filed for this unsigned inventor

Given Name (first and middle (if any))

Family Name or Surname

Inventor's Signature

Date

Residence:

City

State

Country

Citizenship

Post Office Address

City

Province  
or StatePostal Code  
Or Zip

Country

**Name of Additional Joint Inventor, if any:**☐ A petition has been filed for this unsigned inventor

Given Name (first and middle (if any))

Family Name or Surname

Inventor's Signature

Date

Residence:

City

State

Country

Citizenship

Post Office Address

City

Province  
or StatePostal Code  
Or Zip

Country

☐ Additional inventors are being named on the supplemental Additional Inventor(s) PTO/SB/02A attached hereto.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents, Box PCT  
United States Patent and Trademark Office  
Washington, D.C. 20231  
www.uspto.gov

2632-1-00

U.S. APPLICATION NUMBER NO.

09/980,649

FIRST NAMED APPLICANT

Pierre Belhumeur

ATTY. DOCKET NO.

1051-1-019

INTERNATIONAL APPLICATION NO.

PCT/CA00/00446

I.A. FILING DATE

04/20/2000

PRIORITY DATE

David A Jackson  
Klauber & Jackson  
411 Hackensack Avenue  
Hackensack, NJ 07601

CONFIRMATION NO. 6750

371 FORMALITIES LETTER

\*OC000000007873532\*

Date Mailed: 04/17/2002

DOE 5/17/02

## NOTIFICATION OF DEFECTIVE RESPONSE

The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as an Elected Office (37 CFR 1.495):

- U.S. Basic National Fee
- Indication of Small Entity Status
- Copy of IPE Report
- Copy of references cited in ISR
- Copy of the International Application
- Copy of the International Search Report
- Oath or Declaration
- Preliminary Amendments
- Request for Immediate Examination

The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

- Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. The current oath or declaration does not comply with 37 CFR 1.497(a) and (b) in that it:
  - does not identify the application to which it is directed.
  - does not state the person making the oath or declaration believes the named inventor or inventors to be the original and first inventor or inventors of the subject matter which is claimed and for which a patent is sought.

Applicant is required to complete the response within a time limit of **ONE MONTH** from the date of this Notification or within the time remaining in the response set forth in the Notification of Missing Requirements, whichever is the longer. No extension of this time limit may be granted under 37 CFR 1.136, but the period for response set in the Notification of Missing Requirements may be extended under 37 CFR 1.136(a).

Additionally the following defects have been observed: **RECEIVED**

APR 25 2002  
DOCKETED CPI  
KLAUBER & JACKSON

- The oath of declaration does not comply with 37 CFR 1.63 in that it:
  - does not state that the person making the oath or declaration has reviewed and understands the contents of the application, including the claims, as amended by any amendment specifically referred to in the oath or declaration.
  - does not state that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined in 37 CFR 1.56.

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

*A copy of this notice **MUST** be returned with the response.*

ANITA D JOHNSON

Telephone: (703) 305-3661

PART 1 - ATTORNEY/APPLICANT COPY

U.S. APPLICATION NUMBER NO.	INTERNATIONAL APPLICATION NO.	ATTY. DOCKET NO.
09/980,649	PCT/CA00/00446	1051-1-019

FORM PCT/DO/EO/916 (371 Formalities Notice)

Serial No. 09/980,649 File No. 2632-1-001 By DAJ/mb  
Title BIOLOGICAL INDICATORS FOR VALIDATING A PRION ...  
In the Matter of the Application of Pierre Belhumeur et al.  
The following was received in the U.S. Patent & Trademark Office on the date  
stamped hereon: Via First Class Mail

**REQUEST FOR WITHDRAWAL OF INCORRECT ABANDONMENT**

- |   |  |
|---|--|
| <input type="checkbox"/> Transmittal Sheet/Cover Ltr.   | <input type="checkbox"/> Extension of Time                       |
| <input type="checkbox"/> Application For Patent   | <input type="checkbox"/> Issue Fee Transmittal                   |
| EXEC. <input checked="" type="checkbox"/> Declaration <input type="checkbox"/> Affidavit COPY (2) | <input type="checkbox"/> Maintenance Fee                         |
| <input type="checkbox"/> Drawings <input type="checkbox"/> Sheet(s)                               | <input type="checkbox"/> Appn. TM Registration                   |
| <input type="checkbox"/> S.E. Verified Statements   | <input type="checkbox"/> 8 & 15 Declaration                      |
| <input type="checkbox"/> Assignment   | <input type="checkbox"/> Renewal Application                     |
| <input type="checkbox"/> Check for \$ _____   | <input type="checkbox"/> Notice of Appeal                        |
| <input type="checkbox"/> Letter <input type="checkbox"/> Missing Parts                            | <input type="checkbox"/> Brief <input type="checkbox"/> Petition |
| <input type="checkbox"/> Priority Document  | <input type="checkbox"/> Power of Attorney                       |
| <input type="checkbox"/> Amendment <input type="checkbox"/> Response                              | <input checked="" type="checkbox"/> Copy (2) Postcard Receipts;  |
|   | Copy Notice Miss Parts; Copy Notice                              |
|   | Defective Resp; Copy Notice Aband.                               |

*Mailed 2/5/03*

*EXHIBIT 3*

PATENT  
2632-1-001IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT(S) : Pierre Belhumeur *et al*  
SERIAL NO. : 09/980,649 EXAMINER : Unknown  
FILED : October 24, 2001 ART UNIT : 1624  
FOR : BIOLOGICAL INDICATORS FOR VALIDATING A PRION  
STERILIZATION PROCESS

CERTIFICATE OF MAILING UNDER 37 CFR 1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to the ASSISTANT COMMISSIONER FOR PATENTS, WASHINGTON, DC 20231 on February 5, 2003.

David A. Jackson, Reg. No. 26,742  
(Name of Registered Representative)

*Martha Bussanich 2/5/03*  
(Signature and Date)

REQUEST FOR WITHDRAWAL OF INCORRECT ABANDONMENT

ASSISTANT COMMISSIONER FOR PATENTS  
WASHINGTON, D.C. 20231

Dear Sir:

Applicants request herewith that the Notice of Abandonment dated January 13, 2003 be vacated, as a proper response to the outstanding Notice to File Missing Parts of Application dated January 23, 2002, was filed.

In the present instance, a Response to the Notice to File Missing Parts of Application was submitted on March 25, 2002, including the Surcharge for response to the Notice, along with the executed Declaration and Power of Attorney. Subsequently, applicants received a Notification of Defective Response having a mailing date of April 17, 2002, specifying that the Declaration submitted in the previous response lacked the identity of the application to which it is directed and did not make reference to the statement that the persons making the oath or declaration

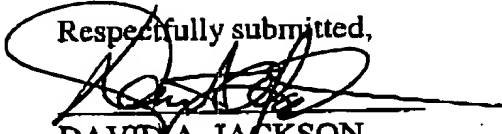


Attorney Docket No.: 2632-1-001

believe themselves to be the inventor or inventors of the subject matter which is claimed and for which a patent is sought. A response to the Notification of Defective Response was filed on May 15, 2002, prior to the one (1) month due date for a response to the Notification. Copies of both responses and validated postcard receipts evidencing receipt of the within responses at the U.S. Patent and Trademark Office, are enclosed herewith.

In view of the fact that a response was duly filed, favorable consideration and withdrawal of the Notice of Abandonment and restoration of the present application to the pending rolls for purposes of further processing, are believed to be in order, and are courteously solicited.

Respectfully submitted,

  
DAVID A. JACKSON  
Attorney for Applicant(s)  
Registration No. 26,742

KLAUBER & JACKSON  
411 Hackensack Avenue  
Hackensack, NJ 07601  
(201) 487-5800  
Enclosures

Commissioner for Patents  
Washington, DC 20231  
www.uspto.gov

APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
09/980,649		Pierre Belhumeur	1051-1-019

David A Jackson  
Klauber & Jackson  
411 Hackensack Avenue  
Hackensack, NJ 07601

CONFIRMATION NO. 6750  
**ABANDONMENT/TERMINATION  
LETTER**  
\*OC00000009366377\*

Date Mailed: 01/13/2003

**NOTICE OF ABANDONMENT UNDER 37 CFR 1.53 (f) OR (g)**

The above-identified application is abandoned for failure to timely or properly reply to the Notice to File Missing Parts (Notice) mailed on 01/23/2002.

- No reply was received.

A petition to the Commissioner under 37 CFR 1.137 may be filed requesting that the application be revived.

Under 37 CFR 1.137(a), a petition requesting the application be revived on the grounds of **UNAVOIDABLE DELAY** must be filed promptly after the applicant becomes aware of the abandonment and such petition must be accompanied by: (1) an adequate showing of the cause of unavoidable delay; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(l); and (4) a terminal disclaimer if required by 37 CFR 1.137(d).

Under 37 CFR 1.137(b), a petition requesting the application be revived on the grounds of **UNINTENTIONAL DELAY** must be filed promptly after applicant becomes aware of the abandonment and such petition must be accompanied by: (1) a statement that the entire delay was unintentional; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(m); and (4) a terminal disclaimer if required by 37 CFR 1.137(d).

Any questions concerning petitions to revive should be directed to "Office of Petitions" at (703) 305-9282.

*A copy of this notice **MUST** be returned with the reply.*

Customer Service Center  
Initial Patent Examination Division (703) 308-1202  
**PART 2 - COPY TO BE RETURNED WITH RESPONSE**

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